

Board of Vocational Nursing and Psychiatric Technicians

SPECIFIC LANGUAGE

VOCATIONAL NURSING REGULATIONS

California Code of Regulations, Title 16, Division 25, Chapter 1:

Amend Section §2518.6. Performance Standards.

- (a) A licensed vocational nurse shall safeguard patients'/clients' health and safety by actions ~~which~~ that include but are not limited to the following:
 - (1) Reporting to the Board ~~unprofessional conduct as defined~~ acts specified in Sections 2878(a), 2878.1 (a), and 2878.5 of the Business and Professions Code;
 - (2) Documenting patient/client care in accordance with standards of the profession; and
 - (3) Performing services in accordance with Section 125.6 of the Business and Professions Code.
- (b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:
 - (1) Maintaining current knowledge and skills for safe and competent practice;
 - (2) Maintaining patient/client confidentiality;
 - (3) Maintaining professional boundaries with the patient/client; ~~and~~
 - (4) Abstaining from chemical/substance abuse-; and
 - (5) Cooperating with the Board as required for investigation of acts specified in Sections 2878, 2878.1(a), and 2878.5 of the Business and Professions Code.

- (c) A violation of this section constitutes unprofessional conduct for purposes of initiating disciplinary action.

NOTE: Authority cited: Sections 2854, Business and Professions Code. Reference: Sections 101.6, 108, 2859, 2878, 2878.1, and 2878.5, Business and Professions Code; Section 11166, Penal Code; and Section 15630(a), Welfare and Institutions Code.

Adopt Section §2520.4 Licensee Mandatory Reporting.

A licensed vocational nurse shall report, in writing, to the Board the commission of any act by another person that constitutes unprofessional conduct as specified in Business and Professions Code Sections 2878, 2878.1 and 2878.5. The report shall be made to the Board within 30 calendar days from the date the licensee knows or should have reasonably known that a violation occurred. Failure to make a report to the Board as required by this section shall constitute unprofessional conduct within the meaning of Business and Professions Code, Section 2878.

NOTE: Authority cited: Sections 2854, Business and Professions Code. Reference: Sections 2859, 2878, 2878.1, and 2878.5, Business and Professions Code; Section 11166, Penal Code; and Section 15630(a), Welfare and Institutions Code.

Adopt Section §2520.5. Employer Mandatory Reporting.

Employers of licensed vocational nurses shall report, in writing, to the Board the suspension or termination for cause of any licensed vocational nurse in its employ. A termination for cause includes resignation of a licensed vocational nurse in lieu of termination for cause. The report shall be made to the Board within 30 calendar days from the effective date of the suspension, termination or resignation. Failure to make a report to the Board as required under this section shall constitute a violation of Business and Professions Code, Section 2878.1.

NOTE: Authority cited: Sections 2854, Business and Professions Code. Reference: Sections 2859, 2878, 2878.1, and 2878.5, Business and Professions Code; Section 11166, Penal Code; and Section 15630(a), Welfare and Institutions Code.

Amend Section §2523. Citations and Fines – Content and Service.

- (a) The executive officer of the board or his/her designee, in lieu of filing an accusation against any licensee, may issue a citation which may contain an administrative fine and/or order of abatement against that licensee for any violation of law which would be grounds for discipline or of any regulation adopted by the board pursuant thereto.
- (b) The executive officer of the board or his or her designee may issue a citation which may contain an administrative fine against any employer of a licensed vocational nurse who fails to report a suspension, termination for cause, or resignation in lieu of termination for cause of that licensee as specified in Section 2878.1 of the Business and Professions Code.
- (~~b~~c) Each citation shall be in writing, shall indicate the classification of the citation, and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the statute or regulation alleged to have been violated.
- (~~e~~d) The citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable time for abatement of the violation or both.
- (~~d~~e) The citation shall inform the cited person or employer of the right to an informal conference concerning the matter and of the right to an administrative hearing.
- (~~e~~f) The citation shall be served upon the cited person or employer personally or by certified and regular mail.

NOTE: Authority cited: Sections 125.9, 148, 2854, Business and Professions Code. Reference: Sections 125.9, 148, 2878, and 2878.1, Business and Professions Code.

Repeal Section §2523.1. Exceptions.

~~A citation shall not be issued in any of the following circumstances:~~

- ~~(a) — The violation is of such a nature and/or severity that revocation of the license or restrictions on the license are necessary in order to ensure consumer protection.~~
- ~~(b) — The licensee's conduct displayed a conscious disregard for the patient and/or the patient's rights. This includes but is not limited to physical abuse; neglect; fiduciary abuse (as defined in the Welfare and Institutions Code); or the deprivation of care or services which are necessary to avoid physical harm or mental suffering.~~
- ~~(c) — The licensee failed to comply with any requirement of any previous citation, including any order of abatement or fine.~~
- ~~(d) — The licensee has been previously disciplined by the board or has previously been denied a license by the board for the same or similar actions.~~
- ~~(e) — The violation involves unprofessional conduct related to controlled substances or dangerous drugs.~~
- ~~(f) — The violation involves unprofessional conduct related to sexual abuse, misconduct, or relations with a patient.~~
- ~~(g) — The licensee was convicted of an offense substantially related to the qualifications, functions, and duties of a licensed vocational nurse and there is insufficient evidence of rehabilitation.~~

NOTE: Authority cited: Sections 125.9, 148, and 2854, Business and Professions Code.
Reference: Sections 125.9, 148, and 2878, Business and Professions Code.

Amend Section §2523.2. Violation Classifications.

- (a) There shall be ~~two~~ three classes of violations:
 - (1) Class "A", ~~and~~;
 - (2) Class "B", ~~and~~ and
 - (3) Class "C."
- (b) In determining the violation class, the following factors shall be considered:

- (1) Nature and severity of the violation.
- (2) Length of time that has passed since the date of the violation.
- (3) Consequences of the violation, including potential or actual patient harm.
- (4) History of previous violations of the same or similar nature.
- (5) Evidence that the violation was willful.

(c) The fine for each Class "A" violation shall not exceed \$10,000 per violation. A Class "A" violation is the failure of an employer to report to the Board, as specified in Section 2520.5, the suspension, termination for cause, or resignation in lieu of termination for cause of a licensed vocational nurse.

(ed) The fine for each eClass "AB" violation shall be not less than \$1,001 nor more than \$2,500. A eClass "AB" violation includes:

- (1) A violation ~~which~~ that resulted in or could have resulted in patient harm and where there is no evidence that revocation or other disciplinary action is required to ensure consumer safety. Such violations include but are not limited to patient abandonment and falsifying nursing notes.
- (2) Any violation ~~which~~ that is neither directly or potentially detrimental to patients nor directly or potentially impacts their care. Such violations include, but are not limited to, a violation committed for personal and/or financial gain or fraud.
- (3) A minor or technical violation ~~which~~ that continues for six months or more in duration; or
- (4) A minor or technical violation with one or more Class "BC" citations.

(de) The fine for each eClass "BC" violation shall not exceed \$1,000. A eClass "BC" violation is a minor or technical violation ~~which~~ that is neither directly or potentially detrimental to patients nor directly or potentially impacts their care and which continues for less than six months duration. Such violations include

but are not limited to practicing with an expired license, precharting, charting errors, or verbal abuse.

(f) Notwithstanding the administrative fine amounts specified in subsections (d) and (e), a citation may include a fine of no less than \$2,501 and no more than \$5,000 if one or more of the following circumstances apply:

(1) The cited person has a history of two or more prior citations of the same or similar violations.

(2) The citation involves a violation that has an immediate relationship to the health and safety of another person.

(3) The citation involves multiple violations that demonstrate a willful disregard of the law.

(4) The citation involves a violation or violations perpetrated against a senior citizen or a disabled or dependent person.

NOTE: Authority cited: Sections 125.9, 148, and 2854, Business and Professions Code.
Reference: Sections 125.9, 148, 2878, and 2878.1, Business and Professions Code.

Amend Section §2523.4. Criteria to be Considered in Assessing a Fine.

In any citation ~~which~~ that includes a fine, the following factors shall be considered in determining the amount of the fine to be assessed:

(a) Gravity of the violation.

(b) History of previous violations of the same or a similar nature.

(c) The good or bad faith exhibited by the cited person or employer.

(d) Evidence that the violation was willful.

(e) The extent to which the cited person or employer of the licensed vocational nurse cooperated with the board's investigation.

(f) The extent to which the cited person has remediated any knowledge and/or skills deficiencies which could have injured a patient.

- (g) Any other mitigating or aggravating factors.

NOTE: Authority cited: Sections 125.9, 148, and 2854, Business and Professions Code.
Reference: Sections 125.9, 148, 2878, and 2878.1, Business and Professions Code.

Amend Section §2523.5. Contested Citations.

- (a) ~~In addition to requesting a hearing provided for in subdivision (b)(4) of Section 125.9 of the Code, t~~The cited person or employer may, within 14 calendar days after service of the citation, submit a written request for an informal citation review with the executive officer or his/her designee. ~~A request for a citation review shall be deemed a request for an administrative hearing.~~
- (b) The executive officer or his/her designee shall, within 30 calendar days from receipt of the written request, hold an informal conference with the cited person ~~cited or employer~~ and ~~his/her~~ their legal counsel or authorized representative, if desired.
- (c) The executive officer or his/her designee may affirm, modify or dismiss the citation, including any fine or order of abatement, at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited person or employer and ~~his/her~~ their legal counsel, if any, within 14 calendar days from the date of the informal conference.
- (d) ~~If the citation is dismissed, the request for a hearing shall be deemed withdrawn.~~
If the citation is affirmed or modified, the cited person or employer may, ~~in his/her discretion, withdraw the request for a hearing or proceed with the administrative hearing process within 30 calendar days from the mailing date of the informal citation review conference decision, request an administrative hearing.~~ The request for administrative hearing shall be in writing.
- (e) The failure of a cited person or employer to appear for a scheduled informal citation review conference shall be deemed a withdrawal of its appeal, and the

citation shall constitute a final order to the board and shall not be subject to administrative review.

- (f) In addition to the appeal rights in (a) through (e) above, the cited person or employer may request an administrative hearing provided for in subdivision (b)(4) of Section 125.9 of the Code within 30 days of the date of issuance of the citation or assessment.

NOTE: Authority cited: Sections 125.9, 148, and 2854, Business and Professions Code.
Reference: Sections 125.9, 148, 2878, and 2878.1, Business and Professions Code.

Amend Section §2523.6. Compliance with Citation - Order of Abatement.

- (a) Orders of abatement may be extended for good cause. If a cited person or employer who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond ~~his/her~~ their control after the exercise of reasonable diligence, then ~~he/she~~ the cited person or employer may request from the executive officer or his/her designee an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.
- (b) If a citation is not contested, or if the order is appealed and the cited person ~~cited~~ or employer does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.
- (c) Failure to timely comply with an order of abatement or pay an assessed fine may result in ~~disciplinary~~ further action being taken by the board, ~~or other appropriate judicial relief being taken against the person cited.~~

- (d) If a fine issued to a licensee is not paid after a citation has become final, the fine shall be added to the cited person's license renewal fee. A license shall not be renewed without payment of the renewal fee and fine.

NOTE: Authority cited: Sections 125.9, 148, and 2854, Business and Professions Code.
Reference: Sections 125.9, 148, 2878, and 2878.1, Business and Professions Code.

Board of Vocational Nursing and Psychiatric Technicians

SPECIFIC LANGUAGE

PSYCHIATRIC TECHNICIAN REGULATIONS

California Code of Regulations, Title 16, Division 25, Chapter 2:

Amend Section §2576.6. Performance Standards.

- (a) A licensed psychiatric technician shall safeguard patients'/clients' health and safety by actions ~~which~~ that include but are not limited to the following:
 - (1) Reporting to the Board ~~unprofessional conduct as defined~~ acts specified in Sections 4521~~(a)~~ and 4521.2(a) of the Business and Professions Code;
 - (2) Documenting patient/client care in accordance with standards of the profession; and
 - (3) Performing services in accordance with Section 125.6 of the Business and Professions Code.
- (b) A licensed psychiatric technician shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:
 - (1) Maintaining current knowledge and skills for safe and competent practice;
 - (2) Maintaining patient/client confidentiality;
 - (3) Maintaining professional boundaries with the patient/client; ~~and~~
 - (4) Abstaining from chemical/substance abuse; and
 - (5) Cooperating with the Board as required for investigation of acts specified in Sections 4521 and 4521.2(a) of the Business and Professions Code.
- (c) A violation of this section constitutes unprofessional conduct for purposes of initiating disciplinary action.

NOTE: Authority cited: Sections 4504, Business and Professions Code. Reference: Sections 101.6, 108, 4502, 4503, 4517, 4520, 4521, and 4521.2(a), Business and Professions Code; Section 11166, Penal Code; and Section 15630(a), Welfare and Institutions Code.

Adopt Section §2577.5. Licensee Mandatory Reporting.

A psychiatric technician shall report, in writing, to the Board the commission of any act by another person that constitutes unprofessional conduct as specified in Business and Professions Code Sections 4521 and 4521.2. The report shall be made to the Board within 30 calendar days from the date the licensee knows or should have reasonably known that a violation occurred. Failure to make a report to the Board as required by this section shall constitute unprofessional conduct within the meaning of Business and Professions Code, Section 4521.

NOTE: Authority cited: Sections 4504, Business and Professions Code. Reference: Sections 101.6, 108, 4502, 4503, 4517, 4520, 4521, and 4521.2(a), Business and Professions Code; Section 11166, Penal Code; and Section 15630(a), Welfare and Institutions Code.

Adopt Section §2577.6. Employer Mandatory Reporting.

Employers of psychiatric technicians shall report, in writing, to the Board the suspension or termination for cause of any psychiatric technician in its employ. A termination for cause includes resignation of a psychiatric technician in lieu of termination for cause. The report shall be made to the Board within 30 calendar days from the effective date of the suspension, termination or resignation. Failure to make a report to the Board as required by this section shall constitute a violation of Business and Professions Code, Section 4521.2.

NOTE: Authority cited: Sections 4504, Business and Professions Code. Reference: Sections 101.6, 108, 4502, 4503, 4520, 4521, and 4521.2(b), Business and Professions Code; Section 11166, Penal Code; and Section 15630(a), Welfare and Institutions Code.

Amend Section §2579.2. Citations and Fines - Content and Service.

- (a) The executive officer of the board or his/her designee, in lieu of filing an accusation against any licensee, may issue a citation which may contain an administrative fine and/or order of abatement against that licensee for any

violation of law which would be grounds for discipline or of any regulation adopted by the board pursuant thereto.

(b) The executive officer of the board or his or her designee may issue a citation which may contain an administrative fine against any employer of a psychiatric technician who fails to report a suspension, termination for cause or resignation in lieu of termination for cause of that licensee as specified in Section 4521.2 of the Business and Professions Code.

(b)c) Each citation shall be in writing, shall indicate the classification of the citation, and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the statute or regulation alleged to have been violated.

(e)d) The citation may contain an assessment of an administrative fine, an order of abatement fixing a reasonable time for abatement of the violation or both.

(d)e) The citation shall inform the cited person or employer of the right to an informal conference concerning the matter and of the right to an administrative hearing.

(e)f) The citation shall be served upon the cited person or employer personally or by certified and regular mail.

NOTE: Authority cited: Sections 125.9, 148, and 4504, Business and Professions Code.
Reference: Sections 125.9, 148, 4521, and 4521.2, Business and Professions Code.

Repeal Section §2579.3. Exceptions.

~~A citation shall not be issued in any of the following circumstances:~~

~~(a) — The violation is of such a nature and/or severity that revocation of the license or restrictions on the license are necessary in order to ensure consumer protection.~~

~~(b) — The licensee's conduct displayed a conscious disregard for the patient and/or the patient's rights. This includes but is not limited to physical abuse; neglect; fiduciary abuse (as defined in the Welfare and Institutions Code); or the~~

~~deprivation of care or services which are necessary to avoid physical harm or mental suffering.~~

~~(c) The licensee failed to comply with any requirement of any previous citation, including any order of abatement or fine.~~

~~(d) The licensee has been previously disciplined by the board or has previously been denied a license by the board for the same or similar actions.~~

~~(e) The violation involves unprofessional conduct related to controlled substances or dangerous drugs.~~

~~(fe) The violation involves unprofessional conduct related to sexual abuse, misconduct, or relations with a patient.~~

~~(g) The licensee was convicted of an offense substantially related to the qualifications, functions, and duties of a licensed psychiatric technician and there is insufficient evidence of rehabilitation.~~

NOTE: Authority cited: Sections 125.9, 148, and 4504, Business and Professions Code.
Reference: Sections 125.9, 148, and 4521, Business and Professions Code.

Amend Section §2579.4. Violation Classifications.

(a) There shall be ~~two~~ three classes of violations:

(1) Class "A"; ~~and;~~

(2) Class "B"; and

(3) Class "C."

(b) In determining the violation class, the following factors shall be considered:

(1) Nature and severity of the violation.

(2) Length of time that has passed since the date of the violation.

(3) Consequences of the violation, including potential or actual patient harm.

(4) History of previous violations of the same or similar nature.

(5) Evidence that the violation was willful.

- (c) The fine for each Class "A" violation shall not exceed \$10,000 per violation. A Class "A" violation is the failure of an employer to report to the Board, as specified in Section 4521.2, the suspension, termination for cause, or resignation in lieu of termination for cause of a psychiatric technician.
- (ed) The fine for each eClass "AB" violation shall be not less than \$1,001 nor more than \$2,500. A eClass "AB" violation includes:
- (1) A violation ~~which~~ that ~~resulted~~ in or could have resulted in patient harm and where there is no evidence that revocation or other disciplinary action is required to ensure consumer safety. Such violations include but are not limited to patient abandonment and falsifying nursing notes.
 - (2) Any violation ~~which~~ that is neither directly or potentially detrimental to patients nor directly or potentially impacts their care. Such violations include, but are not limited to, a violation committed for personal and/or financial gain.
 - (3) A minor or technical violation ~~which~~ that continues for six months or more in duration; or
 - (4) A minor or technical violation with one or more Class "BC" citations.
- (de) The fine for each eClass "BC" violation shall not exceed \$1,000. A eClass "BC" violation is a minor or technical violation ~~which~~ that is neither directly or potentially detrimental to patients nor directly or potentially impacts their care and which continues for less than six months duration. Such violations include but are not limited to practicing with an expired license, precharting, charting errors, or verbal abuse.
- (f) Notwithstanding the administrative fine amounts specified in subsections (d) and (e), a citation may include a fine of no less than \$2,501 and no more than \$5,000 if one or more of the following circumstances apply:

- (1) The cited person has a history of two or more prior citations of the same or similar violations.
- (2) The citation involves a violation that has an immediate relationship to the health and safety of another person.
- (3) The citation involves multiple violations that demonstrate a willful disregard of the law.
- (4) The citation involves a violation or violations perpetrated against a senior citizen or a disabled or dependent person.

NOTE: Authority cited: Sections 125.9, 148, and 4504, Business and Professions Code.
Reference: Sections 125.9, 148, 4521, and 4521.2, Business and Professions Code.

Amend Section §2579.6. Criteria to be Considered in Assessing a Fine.

In any citation ~~which~~ that includes a fine, the following factors shall be considered in determining the amount of the fine to be assessed:

- (a) Gravity of the violation.
- (b) History of previous violations of the same or a similar nature.
- (c) The good or bad faith exhibited by the cited person or employer.
- (d) Evidence that the violation was willful.
- (e) The extent to which the cited person or employer cooperated with the board's investigation.
- (f) The extent to which the cited person has remediated any knowledge and/or skills deficiencies which could have injured a patient.
- (g) Any other mitigating or aggravating factors.

NOTE: Authority cited: Sections 125.9, 148, and 4504, Business and Professions Code.
Reference: Sections 125.9, 148, 4521, and 4521.2, Business and Professions Code.

Amend Section §2579.7. Contested Citations.

- (a) ~~In addition to requesting a hearing provided for in subdivision (b)(4) of Section 125.9 of the Code, t~~The cited person or employer may, within 14 calendar days after service of the citation, submit a written request for an informal citation review with the executive officer or his/her designee. ~~A request for a citation review shall be deemed a request for an administrative hearing.~~
- (b) The executive officer or his/her designee shall, within 30 calendar days from receipt of the written request, hold an informal conference with the cited person ~~cited~~ or employer and ~~his/her~~ their legal counsel or authorized representative, if desired.
- (c) The executive officer or his/her designee may affirm, modify or dismiss the citation, including any fine or order of abatement, at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited person or employer and ~~his/her~~ their legal counsel, if any, within 14 calendar days from the date of the informal conference.
- (d) ~~If the citation is dismissed, the request for a hearing shall be deemed withdrawn.~~ If the citation is affirmed or modified, the cited person or employer may, ~~in his/her discretion, withdraw the request for a hearing or proceed with the administrative hearing process~~ within 30 calendar days from the mailing date of the informal citation review conference decision, request an administrative hearing. The request for administrative hearing shall be in writing.
- (e) The failure of a cited person or employer to appear for a scheduled informal citation review conference shall be deemed a withdrawal of its appeal, and the citation shall constitute a final order to the board and shall not be subject to administrative review.
- (f) In addition to the appeal rights in (a) through (e) above, the cited person or employer may request an administrative hearing provided for in subdivision (b)(4)

of Section 125.9 of the Code within 30 days of the date of issuance of the citation or assessment.

NOTE: Authority cited: Sections 125.9, 148, and 4504, Business and Professions Code.
Reference: Sections 125.9, 148, 4521, and 4521.2, Business and Professions Code.

Amend Section §2579.8. Compliance with Citation - Order of Abatement.

- (a) Orders of abatement may be extended for good cause. If a cited person or employer who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond ~~his/her~~ their control after the exercise of reasonable diligence, then ~~he/she~~ the cited person or employer may request from the executive officer or his/her designee an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.
- (b) If a citation is not contested, or if the order is appealed and the cited person ~~cited~~ or employer does not prevail, failure to abate the violation or to pay the assessed fine within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.
- (c) Failure to timely comply with an order of abatement or pay an assessed fine may result in ~~disciplinary~~ further action being taken by the board, ~~or other appropriate judicial relief being taken against the person cited.~~
- (d) If a fine issued to a licensee is not paid after a citation has become final, the fine shall be added to the cited person's license renewal fee. A license shall not be renewed without payment of the renewal fee and fine.

NOTE: Authority cited: Sections 125.9, 148, and 4504, Business and Professions Code.
Reference: Sections 125.9, 148, 4521, and 4521.2, Business and Professions Code.